

Introduced by Senator Burton

February 28, 1997

An act to amend Sections 1635 and 1647 of the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

SB 1319, as introduced, Burton. Insurance: licensing.

(1) Existing law requires a person who acts as an insurance agent, life agent, insurance broker, or insurance solicitor to be appropriately licensed. No license is required under these provisions for a person to act in specified capacities or engage in certain activities, if no commission is paid. The exempt activities include, among others, employment that does not include the solicitation, negotiation, or effecting of contracts of insurance, and the signing of policies or other evidence of insurance.

This bill would modify the above exemption to provide that, in order to be exempt from licensure, the employment also may not include the quoting of premiums or explanation of policy provisions.

(2) Existing law exempts from these licensing requirements a regularly salaried administrative or clerical employee of a licensed fire and casualty broker-agent, if the employee devotes substantially all of his or her services to activities other than solicitation of insurance.

This bill would modify the above exemption to require that in order to be exempt, the employee also may not quote insurance premiums or explain the scope of insurance coverage.

(3) Under existing law, an organization may hold any license necessary to act as a life agent, a fire and casualty broker-agent, or a cargo shipper's agent, under specified provisions. Only certain natural persons are eligible to be named to exercise the agency or brokerage powers under an organization license.

This bill would provide that those specified person are eligible only if they do not quote insurance premiums or explain policy provisions to consumers without being individually licensed.

(4) Existing law provides that an unlicensed person who acts, offers to act, or assumes to act in a capacity for which a license is required under the provisions described in (1) and (2) above is guilty of a misdemeanor. Because this bill would reduce the number of persons who are exempt from licensure, it would increase the number of persons potentially subject to criminal prosecution, thereby imposing a state-mandated local program.

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1635 of the Insurance Code is
2 amended to read:

3 1635. No license is required under ~~the provisions of~~
4 this chapter for a person to act in the following capacities
5 or to engage in the following activities, providing no
6 commission is paid or allowed, directly or indirectly, for
7 acting in those capacities or engaging in those activities:

8 (a) The business of examining, certifying, or
9 abstracting titles to real property.

1 (b) The solicitation for membership in a fraternal
2 benefit society and other activities to the extent and as
3 described in Sections 11013 and 11102 ~~of this code~~.

4 (c) As a salaried representative of a reciprocal or
5 interinsurance exchange or of its attorney in fact.

6 (d) Employment ~~which~~ *that* does not include the
7 solicitation, negotiation or effecting of contracts of
8 insurance, *the quoting of premiums, explanation of policy*
9 *provisions*, and the signing of policies or other evidences
10 of insurance.

11 (e) As an officer of an insurer or a salaried traveling
12 employee of the type commonly known as a special agent
13 or as an agency supervisor, while performing duties and
14 exercising functions that are commonly performed by a
15 special agent or agency supervisor, if the person engaging
16 in the activity does not either:

17 (1) Effect insurance.

18 (2) Solicit or negotiate insurance except as a part of
19 and in connection with the business of a fire and casualty
20 broker-agent or life agent licensed under this chapter.

21 (f) As an officer or salaried representative of a life
22 insurer if his or her activities are limited to direct
23 technical advice and assistance to a properly licensed
24 person and his or her activities do not include effecting
25 insurance or soliciting or negotiating insurance except as
26 a part of and in connection with the business of a fire and
27 casualty broker-agent or life agent licensed under this
28 chapter.

29 (g) Employment by an insurer at its home or branch
30 office ~~which~~ *that* does not include the solicitation or
31 negotiation of insurance, and ~~which~~ *that* may as part
32 thereof include the signing of policies or other evidences
33 of insurance.

34 (h) The completion or delivery of a declaration or
35 certificate of coverage under a running inland marine
36 insurance contract evidencing coverage ~~thereunder~~
37 *under the contract* and including only those negotiations
38 as are necessary to the completion or delivery if the
39 person performing those acts or his or her employer has

1 an insurable interest in the risk covered by the certificate
2 or declaration.

3 (i) As an employee of a licensed fire and casualty
4 broker-agent, whose employment is one or more of the
5 following:

6 (1) That of a regularly salaried administrative or
7 clerical employee who devotes substantially all of his or
8 her services to activities other than the solicitation of
9 insurance from the insuring public, *provided the*
10 *employee neither quotes insurance premiums nor*
11 *explains the scope of insurance coverage.*

12 (2) That of a salesperson who devotes substantially all
13 of his or her activities to selling merchandise and whose
14 solicitation of insurance is limited only to the quoting of
15 a premium for insurance to be included in the purchase
16 price covering the interest retained in the merchandise
17 by the seller.

18 (j) The solicitation, negotiation or effectuation of
19 home protection contracts by a person licensed pursuant
20 to Part 1 (commencing with Section 10000) of Division 4
21 of the Business and Professions Code in connection with
22 his or her licensed function authorized by Section 10131
23 or 10131.6 of the Business and Professions Code. Neither
24 the receipt of a payment permitted by Section 12760 nor
25 the receipt of a benefit permitted by Section 12765 shall
26 disqualify the recipient from the licensing exemption
27 provided by this chapter.

28 SEC. 2. Section 1647 of the Insurance Code is
29 amended to read:

30 1647. Only the following natural persons are eligible
31 to be named to exercise the agency or brokerage powers
32 under an organization license, *provided that those*
33 *persons neither quote insurance premiums nor explain*
34 *policy provisions to consumers without being individually*
35 *licensed:*

36 (a) Any general partner or employee of a
37 copartnership.

38 (b) Any member, officer or employee of an
39 association.

40 (c) Any officer or employee of a corporation.

1 (d) Any manager, member, officer, or employee of a
2 limited liability company.

3 SEC. 3. No reimbursement is required by this act
4 pursuant to Section 6 of Article XIII B of the California
5 Constitution because the only costs that may be incurred
6 by a local agency or school district will be incurred
7 because this act creates a new crime or infraction,
8 eliminates a crime or infraction, or changes the penalty
9 for a crime or infraction, within the meaning of Section
10 17556 of the Government Code, or changes the definition
11 of a crime within the meaning of Section 6 of Article
12 XIII B of the California Constitution.

13 Notwithstanding Section 17580 of the Government
14 Code, unless otherwise specified, the provisions of this act
15 shall become operative on the same date that the act
16 takes effect pursuant to the California Constitution.

